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Attorneys For Defendants
National Vending Systems, Inc., Mad Dog Energy
Products, Inc., Richard Black, Gary Luckner,
Michael Stein And Mel Hendrix

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION - RIVERSIDE COURTHOUSE

WOODARD INVESTMENTS, INC. an
Oregon corporation, and KEITH
WOODARD, an individual,

Plaintiffs,

vs.

NATIONAL VENDING SYSTEMS,
INC., a California
corporation; MAD DOG ENERGY
PRODUCTS, INC., a California
corporation; RICHARD BLACK, an
individual; GARY LUCKNER, an
individual; MICHAEL STEIN, an
individual; MEL HENDRIX, an
individual; and RICHARD ALLEN,
an individual,

Defendants.

Case No. EDCV 08-01805 SGL (MANx)

SUPPLEMENTAL DECLARATION OF
RICHARD ALLEN BLACK IN SUPPORT OF
DEFENDANTS' REPLY TO PLAINTIFFS'
OPPOSITION TO MOTION TO SET ASIDE
RIGHT TO ATTACH ORDERS, QUASH
WRITS OF ATTACHMENT AND RELEASE
PROPERTY LEVIED UPON

[Reply To Opposition To Motion To
Set Aside Right To Attach Order,
Etc. Filed Concurrently Herewith]

Date: August 18, 2009
Time: 10:00 a.m.
Courtroom: 580
Roybal Federal Bldg.
255 E. Temple St.
Los Angeles, CA 90012

I, RICHARD ALLEN BLACK, declare as follows:

1. I am a party to this action. I have personal,

1 firsthand knowledge of the matters set forth in this Declaration
2 and, if called upon to do so, I could and would competently testify
3 thereto.

4 2. I make this Supplemental Declaration in support of
5 the "Reply" of defendants MAD DOG ENERGY PRODUCTS, INC. ("Mad Dog")
6 and NATIONAL VENDING SYSTEMS, INC. ("NVS") [collectively,
7 "Defendants"] to the "Opposition" (the "Opposition") of plaintiffs
8 WOODARD INVESTMENTS, INC. ("Woodard Investments") and KEITH WOODARD
9 ("Mr. Woodard") [collectively, "Plaintiffs"] to Defendants' "Motion
10 To Set Aside Right To Attach Orders, Quash Writs Of Attachment And
11 Release Property Levied Upon" (the "Motion").

12 3. I have reviewed Plaintiffs' Opposition papers,
13 including without limitation, the Supplemental Declaration of Keith
14 Woodard ("Supp. Woodard Dec."), Supplemental Declaration of Jason
15 Kensey ("Supp. Kensey Dec."), Declaration of Sherri Biethman
16 ("Biethman Dec."), Declaration of James Koepsell ("Koepsell Dec."),
17 Declaration of Jim Rogers ("Rogers Dec.") and the Declaration of
18 Dan Vitt, with its accompanying Exhibit "12" (the "Vitt
19 Dec.") [collectively, the "Declarations"]. While I believe that
20 there are a number of misstatements in such Declarations, rather
21 than get into a never-ending "tit for tat" exchange with Mr.
22 Woodard, I stand by my previous Declaration herein which is
23 supported by the documents previously introduced herein by
24 Defendants. Accordingly, I will address only a few of the
25 misleading or incorrect statements made in Plaintiffs' Opposition
26 and latest Declarations.

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1 PLAINTIFFS' REJECTION OF PLANS SET FORTH IN MARKETING MATERIALS AND
2 NEGOTIATION OF MASTER DISTRIBUTOR RIGHTS

3 4. The "Marketing Materials", attached as Exhibit "1"
4 to Plaintiffs' Attachment papers, including the "Energy Center
5 Price Sheet" and sample "Purchase Agreement" do not refer to, or
6 include, any "Master Distributor" rights to any exclusive
7 territories. Mr. Woodard rejected the plans set forth on the
8 "Energy Center Price Sheet". He informed me that he did not want
9 to just purchase machines, but that he wanted to be a "Master
10 Distributor" to supply product to sub-distributors who owned their
11 own machines. This was something new and additional, and was not
12 offered in the plans set forth in the "Energy Center Price Sheet".
13 He explained that he had prior experience as a master distributor
14 with his juice bars.

15 5. Mr. Woodard then negotiated a deal with NVS to
16 become the "Master Distributor" in the Oregon territory and entered
17 into the First Purchase Agreement for a total purchase price of
18 \$100,080. Part of that deal was that he could buy the product at
19 the reduced rate of 12 cents per candy and sell them to sub-
20 distributors for 15 cents each, making an additional 3 cent per
21 candy profit as the Master Distributor. The contract also included
22 very express clauses stating that there were no earnings estimates
23 or guarantees and no buy-back protections. [See, Defendants' Exh.
24 "1".]

25 6. Mr. Woodard then negotiated a deal to become the
26 Master Distributor in the Washington area and entered into the
27 Second Purchase Agreement for a total purchase price of \$150,000.
28 It contained similar provisions. [See, Defendants' Exh. "4".]

1 7. In December 2007, Plaintiffs negotiated their third
2 master distributor contract with Defendants and entered into the
3 Master Distributor Agreement upon which Plaintiffs base their
4 Attachment. [See, Defendants' Exh. "7".]

5 BIETHMAN DECLARATION AND AMERICAN VENDING SYSTEMS

6 8. With respect to the Biethman Dec., Mrs. Biethman
7 states that she purchased vending machines from American Vending
8 Systems ("AVS"), but then incorrectly states that I am a principal
9 of AVS. This is not true. I am not, and never have been, a
10 principal, owner, officer, director, or operator of AVS. Neither
11 of Defendants has ever been an owner, principal or operator of AVS.
12 According to my understanding in the industry, AVS has been in the
13 business of selling snack and beverage vending machines since the
14 1980's. It is owned and operated by Louis Gubitosa. Defendants
15 supplied product to certain customers of AVS to stock certain of
16 the vending machines such customers purchased from AVS. I have at
17 various times acted as an independent consultant to AVS, but never
18 a principal.

19 9. Mrs. Biethman, as a vending machine owner and
20 customer of AVS, and I, as a principal of Mad Dog, had discussions
21 regarding her purchasing product to stock her AVS machines. We
22 also discussed the possibility of her purchasing the Master
23 Distributor rights to certain territories. She was interested in
24 Idaho, but I told her that the Master Distributor rights to that
25 territory were already owned by Plaintiffs.

26 10. In or about March 2008, Mrs. Biethman and her
27 husband determined to purchase the Master Distributor rights to
28 Montana, Wyoming and Texas, with rights of first refusal to Arizona

1 and Colorado, for a total initial payment amount of \$175,000. In
2 this regard, they sent Mad Dog a deposit check in the amount of
3 \$2,500 which included their notation "For Master Distributor TX,
4 WY, MT". A true and correct copy of this check is attached as
5 Exhibit "19" hereto and is incorporated herein by this reference.
6 Ultimately, Mrs. Biethman determined not to acquire the Master
7 Distributor rights to Texas, Wyoming and Montana, and Mad Dog
8 returned to her the full amount of her check.

9 KOEPSSELL, ROGERS AND VITT DECLARATIONS

10 AND INDEPENDENT VENDING CONCEPTS

11 11. I am not, and never have been, a principal, owner,
12 officer, director, or operator of Independent Vending Concepts,
13 L.C. ("IVC"). Neither of Defendants has ever been an owner,
14 principal or operator of IVC. According to my understanding in the
15 industry, IVC sells vending machines and Defendants have sold
16 product to its customers to stock certain of those vending
17 machines. The Koepsell Dec., Rogers Dec. and Vitt Dec. all state
18 that they purchased their machines from IVC. Mad Dog was only a
19 supplier of the product to these individuals.

20 12. With respect to the Rogers Dec., I did not make the
21 representations to him regarding the amount of money I was making
22 or regarding my children being able to purchase new cars inasmuch
23 as they are not even old enough to drive. Mr. Rogers states that
24 his business only lasted a few months before it was forced to close
25 supposedly due to poor sales. However, Mad Dog's records indicate
26 that Mr. Rogers purchased product in January 2008, twice in April
27 2008, and then again in September 2008 - nine months after his
28 first purchase. True and correct copies of correspondence, a check

1 and invoices evidencing such purchases are collectively attached as
2 Exhibit "20" hereto and are incorporated herein by this reference.

3 13. With respect to the Vitt Dec., the documents
4 attached as Exhibit "12" state that they are from IVC, Kyle
5 Erickson of EnergyVendingBusiness.com, and "Spike! Energy Systems".
6 They were not provided to Mr. Vitt by Mad Dog or NVS.

7 I declare under penalty of perjury under the laws of the
8 State of California that the foregoing is true and correct.

9 Executed on August __, 2009, at Temecula, California.

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11 RICHARD ALLEN BLACK
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6 They were not provided to Mr. Vitt by Mad Dog or NVS.

7 I declare under penalty of perjury under the laws of the
8 State of California that the foregoing is true and correct.

9 Executed on August 11, 2009, at Temecula, California.

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RICHARD ALLEN BLACK

EXHIBIT 19

JARED E. BIETHMAN
SHERRI P. BIETHMAN
PH. (208) 938-3164
673 W BANKSIDE DR
EAGLE, ID 83616

1960

8118/0625-09
20

Date 11/18/2018

Pay to the
Order of

Pay to the Order of	MAD Dog Energy Products	\$ 2500.00
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A.A. Credit Union

THE ASSOCIATED PRESS

2010-11-11

THE

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EXHIBIT 20

Jim Rogers
312 S. Wall St.
Mountain Grove, MO 65711

01/03/08

Mad Dog Energy
28581 Front St.
Temeculah, CA 92590

Unit 107

Dear Sirs,

As per our phone conversation of Jan. 2, 2008, enclosed please find check in the amount of \$2345.00 for my first purchase of Buzz Bite energy chews. This amount reflects a \$15.00 deduction for the cost of FedEx overnight. I was told by Richard that this would be covered by Mad Dog energy, hence the deduction from the original amount of \$2360.00 for the product.

Please ship ASAP to the above address in Mountain Grove, MO.

If you have any questions, please call me at (417) 349-0171. I hope to be doing much business with you in the near future.

Regards,

Jim Rogers

JAMES ROGERS
DELLA ROGERS
PH. 417-349-0171 417-349-0870
312 S WALL
MOUNTAIN GROVE, MO 65711

2147
80-1163/815

1-3 20 08

Pay to the Order of MAD DOG ENERGY \$ 2345⁰⁰
Two thousand three hundred forty-five DOLLARS

Legacy Bank and Trust
Plato, MO 65552
Mt. Grove, MO 65711
Sparta, MO 65753

FOR BUZZ BITE ORDER Della Rogers

SAFETY - 1032

16 case 5

41800 Enterprise Circle So., #F
Temecula, CA 92590

Date	Invoice #
4/25/2008	406

Bill To

James & Della Rogers
312 S. Wall Street
Mountain Grove, MO 65711

Ship To
James & Della Rogers 312 S. Wall Street Mountain Grove, MO 65711 (417) 349-0171

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
			4/30/2008	Federal Express		
Quantity	Item Code	Description			Price Each	Amount
4	Chocolate Buzz Bites	Product for Machines Out-of-state sale, exempt from sales tax			236.00 0.00%	944.00 0.00
					621980960004867	
					Total	\$944.00

Mad Dog Energy Products, Inc.

41800 Enterprise Circle So., #F
Temecula, CA 92590**Invoice**

Date	Invoice #
4/28/2008	410

Bill To
James & Della Rogers 312 S. Wall Street Mountain Grove, MO 65711



Ship To
James & Della Rogers 312 S. Wall Street Mountain Grove, MO 65711 (417) 349-0171

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
			4/30/2008	Federal Express		
Quantity	Item Code	Description			Price Each	Amount
4	Chocolate Mint Bu...	Product for Machines Out-of-state sale, exempt from sales tax			236.00 0.00%	944.00 0.00
621980960004898-CM 7867						
					Total	\$944.00

Invoice

Mad Dog Energy Products, Inc.

41800 Enterprise Circle So., #F
Temecula, CA 92590

Date	Invoice #
9/17/2008	1081

Bill To	Ship To
James & Della Rogers 1435 South Rogers Avenue Springfield, MO 65804	James & Della Rogers / 1435 South Rogers Avenue Springfield, MO 65804 (417) 349-0171

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
			9-22-08 9/17/2008	Federal Express		
Quantity	Item Code	Description	Price Each	Amount		
1	Chocolate Mint Bu...	Product for Machines Out-of-state sale, exempt from sales tax	236.00 0.00%	236.00 0.00		
621980960013036			CM - 1 case 201bs			
				Total	\$236.00	

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

I, the undersigned, say: I am employed in the County of Orange, State of California. I am over the age of 18 years and am not a party to the within action. My business address is 1920 Main Street, Suite 1080, Irvine, California 92614.

I served the foregoing documents described as:

SUPPLEMENTAL DECLARATION OF RICHARD ALLEN BLACK IN SUPPORT OF DEFENDANTS' REPLY TO PLAINTIFFS' OPPOSITION TO MOTION TO SET ASIDE RIGHT TO ATTACH ORDERS, QUASH WRITS OF ATTACHMENT AND RELEASE PROPERTY LEVIED UPON

on the interested parties in this action in the following manners:

VIA ELECTRONIC ACCESS:

I hereby certify that on **August 11, 2009**, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system on the following:

Jennifer L. Brockett
Davis Wright Tremaine LLP
jenniferbrockett@dwt.com

David C. Rucker
Davis Wright Tremaine LLP
davidrucker@dwt.com


VIA OVERNIGHT EXPRESS MAIL

I deposited such envelope into the Overnight Express Mail at Irvine, California.

Jennifer L. Brockett
DAVIS WRIGHT TREMAINE LLP
865 South Figueroa Street, Suite 2400
Los Angeles, CA 90017

David C. Rucker
DAVIS WRIGHT TREMAINE LLP
1300 S.W. Fifth Avenue, Suite 2300
Portland, OR 97201

Executed on **August 11, 2009** at Irvine, California.


RICK A. VARNER